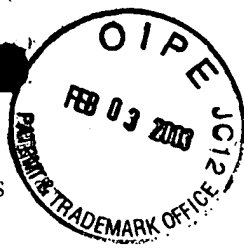


"Express Mail" Label No. EL 889372078 US  
Date of Deposit February 3, 2003



PATENT *85 2/16/03*  
Attorney Docket No.: 019934-001710US  
Client Ref. No.: T001710US

I hereby certify that this is being deposited with the United States Postal Service "Express Mail Post Office to Address" service under 37 CFR 1.10 on the date indicated above and is addressed to:

Assistant Commissioner for Patents  
Washington, D.C. 20231

By: *Maisie C. Livengood*  
Maisie C. Livengood

**RECEIVED**  
FEB 10 2003  
TECH CENTER 1600/2900

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Thomas J. Schall et al.

Application No.: 09/919,224

Filed: July 30, 2001

For: IMMUNOLOGIC ACTIVITIES  
OF RHESUS  
CYTOMEGALOVIRUS  
ENCODED IL-10 (AMENDED)

Examiner: Michail A. Belyavskiy

Art Unit: 1644

PRELIMINARY AMENDMENT AND  
RESPONSE TO RESTRICTION  
REQUIREMENT

**BEST AVAILABLE COPY**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the Restriction Requirement mailed October 1, 2002, Applicants respectfully request entry of the amendments and remarks as set forth in this paper. A response was originally due November 1, 2002. A three month petition for extension of time is enclosed, thus extending the period for response to February 1, 2003, which because it falls on a Saturday means the deadline is further extended until Monday, February 3, 2003. Accordingly, this response is timely filed.

02-05-07

1644

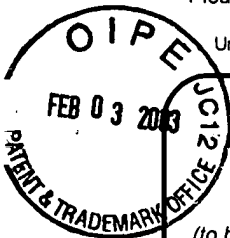
PTO/SB/21 (08-00)

Please type a plus sign (+) inside this box → ☒

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

|                        |                       |
|------------------------|-----------------------|
| Application Number     | 09/919,224            |
| Filing Date            | July 30, 2001         |
| First Named Inventor   | Schall, Thomas J.     |
| Group Art Unit         | 1644                  |
| Examiner Name          | Michail A. Belyavskyi |
| Attorney Docket Number | 019934-001710US       |

Total Number of Pages in This Submission

1

## ENCLOSURES (check all that apply)

☒ Fee Transmittal Form☐ Fee Attached☐ Amendment / Reply☐ After Final☐ Affidavits/declaration(s)☒ Extension of Time Request☐ Express Abandonment Request☐ Information Disclosure Statement☐ Certified Copy of Priority Document(s)☐ Response to Missing Parts/  
Incomplete Application☐ Response to Missing Parts  
under 37 CFR 1.52 or 1.53☐ Assignment Papers  
(for an Application)☐ Drawing(s)☐ Licensing-related Papers☐ Petition☐ Petition to Convert to a  
Provisional Application☐ Power of Attorney, Revocation  
Change of Correspondence Address☐ Terminal Disclaimer☐ Request for Refund☐ CD, Number of CD(s)☐ After Allowance Communication to  
Group☐ Appeal Communication to Board of  
Appeals and Interferences☐ Appeal Communication to Group  
(Appeal Notice, Brief, Reply Brief)☐ Proprietary Information☐ Status Letter☒ Other Enclosure(s)  
(please identify below):

Return Postcard

Preliminary Amendment and Response  
Restriction Requirement

Remarks

The Commissioner is authorized to charge any additional fees to  
Deposit Account 20-1430.

BEST AVAILABLE COPY

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm  
and  
Individual name

Townsend and Townsend and Crew LLP

Scott L. Ausenhus

Reg. No. 42,271

Signature

Date

February 3, 2003

## CERTIFICATE OF MAILING

Express Mail Label: EL 889372078 US

I hereby certify that this correspondence is being deposited with the United States Postal Service with "Express Mail Post Office to Address" service under 37 CFR 1.10 on this date February 3, 2003 and is addressed to:

Assistant Commissioner for Patents, Washington, D.C. 20231

Typed or printed name

Maisie C. Livengood

Signature

Date

February 3, 2003

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

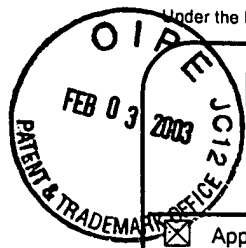
DE 7094072 v1

SN8202268873

RECEIVED

FEB 10 2003

TECH CENTER 1600/2900



# FEE TRANSMITTAL for FY 2003

Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ ) 465

Complete if Known

|                      |                       |
|----------------------|-----------------------|
| Application Number   | 09/919,224            |
| Filing Date          | July 30, 2001         |
| First Named Inventor | Schall, Thomas J.     |
| Examiner Name        | Michail A. Belyavskiy |
| Group Art Unit       | 1644                  |
| Attorney Docket No.  | 019934-001710US       |

TECH CENTER 1600/2000

FEB 10 2003

RECEIVED

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ MoneyOrder ☐ Other ☐ None

☒ Deposit Account:
Deposit  
Account  
Number

20-1430

Deposit  
Account  
Name

Townsend and Townsend and Crew LLP

The Commissioner is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments  
☒ Charge any additional fee(s) during the pendency of this application  
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

## 1. BASIC FILING FEE

| Large Entity |          | Small Entity |          | Fee Description        | Fee Paid |
|--------------|----------|--------------|----------|------------------------|----------|
| Fee Code     | Fee (\$) | Fee Code     | Fee (\$) |                        |          |
| 1001         | 750      | 2001         | 375      | Utility filing fee     |          |
| 1002         | 330      | 2002         | 165      | Design filing fee      |          |
| 1003         | 520      | 2003         | 260      | Plant filing fee       |          |
| 1004         | 750      | 2004         | 375      | Reissue filing fee     |          |
| 1005         | 160      | 2005         | 80       | Provisional filing fee |          |

SUBTOTAL (1)

(\$ )

## 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

|                    |       | Extra Claims |   | Fees from below |  | Fee Paid |
|--------------------|-------|--------------|---|-----------------|--|----------|
| Total Claims       |       |              |   |                 |  |          |
| 36                 | -49 = | 0            | X |                 |  |          |
| Independent Claims |       |              |   |                 |  |          |
| 2                  | -7 =  | 0            | X |                 |  |          |
| Multiple Dependent |       |              |   |                 |  |          |
|                    |       |              | X |                 |  |          |

| Large Entity |          | Small Entity |          | Fee Description  |
|--------------|----------|--------------|----------|--|
| Fee Code     | Fee (\$) | Fee Code     | Fee (\$) |  |
| 1202         | 18       | 2202         | 9        | Claims in excess of 20                                     |
| 1201         | 84       | 2201         | 42       | Independent claims in excess of 3                          |
| 1203         | 280      | 2203         | 140      | Multiple dependent claim, if not paid                      |
| 1204         | 84       | 2204         | 42       | ** Reissue independent claims over original patent         |
| 1205         | 18       | 2205         | 9        | ** Reissue claims in excess of 20 and over original patent |

SUBTOTAL (2)

(\$ )

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

## 3. ADDITIONAL FEES

| Large Entity |          | Small Entity |          | Fee Description  | Fee Paid |
|--------------|----------|--------------|----------|--|----------|
| Fee Code     | Fee (\$) | Fee Code     | Fee (\$) |  |          |
| 1051         | 130      | 2051         | 65       | Surcharge - late filing fee or oath  |          |
| 1052         | 50       | 2052         | 25       | Surcharge - late provisional filing fee or cover sheet.                    |          |
| 1053         | 130      | 1053         | 130      | Non-English specification  |          |
| 1812         | 2,520    | 1812         | 2,520    | For filing a request for reexamination                                     |          |
| 1804         | 920*     | 1804         | 920*     | Requesting publication of SIR prior to Examiner action                     |          |
| 1805         | 1,840*   | 1805         | 1,840*   | Requesting publication of SIR after Examiner action                        |          |
| 1251         | 110      | 2251         | 55       | Extension for reply within first month                                     |          |
| 1252         | 410      | 2252         | 205      | Extension for reply within second month                                    |          |
| 1253         | 930      | 2253         | 465      | Extension for reply within third month                                     | 465      |
| 1254         | 1,450    | 2254         | 725      | Extension for reply within fourth month                                    |          |
| 1255         | 1,970    | 2255         | 985      | Extension for reply within fifth month                                     |          |
| 1401         | 320      | 2401         | 160      | Notice of Appeal   |          |
| 1402         | 320      | 2402         | 160      | Filing a brief in support of an appeal                                     |          |
| 1403         | 280      | 2403         | 140      | Request for oral hearing   |          |
| 1451         | 1,510    | 1451         | 1,510    | Petition to institute a public use proceeding                              |          |
| 1452         | 110      | 2452         | 55       | Petition to revive - unavoidable   |          |
| 1453         | 1,300    | 2453         | 650      | Petition to revive - unintentional   |          |
| 1501         | 1,300    | 2501         | 650      | Utility issue fee (or reissue)   |          |
| 1502         | 470      | 2502         | 235      | Design issue fee   |          |
| 1503         | 630      | 2503         | 315      | Plant issue fee  |          |
| 1460         | 130      | 1460         | 130      | Petitions to the Commissioner  |          |
| 1807         | 50       | 1807         | 50       | Petitions related to provisional applications                              |          |
| 1806         | 180      | 1806         | 180      | Submission of Information Disclosure Stmt                                  |          |
| 8021         | 40       | 8021         | 40       | Recording each patent assignment per property (times number of properties) |          |
| 1809         | 750      | 2809         | 375      | Filing a submission after final rejection (37 CFR § 1.129(a))              |          |
| 1810         | 750      | 2810         | 375      | For each additional invention to be examined (37 CFR § 1.129(b))           |          |
| 1801         | 750      | 2801         | 375      | Request for Continued Examination (RCE)                                    |          |
| 1802         | 900      | 1802         | 900      | Request for expedited examination of a design application                  |          |

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid SUBTOTAL (3)

(\$ )465

## SUBMITTED BY

Complete (if applicable)

|                   |                    |                                   |        |           |                  |
|-------------------|--------------------|-----------------------------------|--------|-----------|------------------|
| Name (Print/Type) | Scott L. Aussenhus | Registration No. (Attorney/Agent) | 42,271 | Telephone | 303-571-4000     |
| Signature         |                    |                                   |        | Date      | February 3, 2003 |

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231. DE 7094073 v1